

### REMARKS/ARGUMENTS

The rejections presented in the Office Action dated June 15, 2005 (hereinafter Office Action) have been considered. Claims 1-37 are pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1-37 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication Number 2003/0100295 to Sakai et al. (hereinafter *Sakai*). The Applicant respectfully traverses the rejection.

The rejection to Claim 1 is first addressed. Notwithstanding other claimed recitations that may not be taught by the cited reference, it is respectfully submitted that *Sakai* fails to expressly or inherently teach at least a control unit configured to save both unanswered call data and messages relating to unanswered calls, and constituting contact attempts from the unanswered call data and the messages relating to the unanswered calls.

More particularly, it appears that *Sakai* relates to receiving an incoming call where no response is made to the call, where an image of the caller of the incoming call is presented (see, e.g., Abstract). *Sakai* relates only to the identification of the caller, and does not address issues to which Claim 1 addresses. For example, the present invention facilitates delivering a message(s) to a subscriber being called (hereinafter the “callee”) where that message is then associated with the unanswered call. In this manner, the caller can notify the callee of information such as, for example, whether or not to return the call to the caller. (see, e.g., page 2, paragraph 9).

As set forth in Claim 1, the control unit saves unanswered call data and messages relating to unanswered calls. *Sakai* does not teach or otherwise disclose saving messages from the callers relating to unanswered calls. Further, *Sakai* fails to teach or otherwise disclose constituting contact attempts from the unanswered call data and the messages relating to the unanswered calls. For example, the Office Action identifies paragraphs 0086-0087 and 0092, and FIG. 10 of *Sakai* as teaching these claimed recitations. As set forth in paragraph 0087 of *Sakai*, the CPU displays the caller’s name, phone number, and image data on the display unit if the caller’s phone number, name, and image data are registered with the phone book of the

callee's device. Similarly, paragraph 0092 of *Sakai* details only caller information, and is silent with respect to receiving messages which are then used to constitute contact attempts together with unanswered call data. Thus, *Sakai* does not teach receiving calls and messages, where a control unit saves unanswered call data and the messages relating to the unanswered calls, and then constitutes contact attempts from this received and stored information. There is no message(s) received in *Sakai*, and particularly no message(s) that is stored and used in connection with unanswered call data to constitute contact attempts.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain a rejection based on 35 U.S.C. §102. The Applicant respectfully submits that *Sakai* does not meet this criteria, and therefore fails to anticipate Claim 1. For at least these reasons, it is respectfully submitted that Claim 1 is in condition for allowance over the *Sakai* reference.

The above rationale holds true for independent Claim 10 as well. For example, the Office Action identifies paragraph 0028, lines 1-10, paragraph 0092, lines 1-15, and FIGs. 5 and 11 as teaching the constituting means for constituting contact attempts from the unanswered call data and the messages relating to the unanswered call data. The Applicant respectfully disagrees. The cited (and other) portions of *Sakai* fail to teach any such constituting of contact attempts from both the unanswered call data and messages relating to the unanswered call data. Nothing in *Sakai* teaches at least receiving messages in addition to calls, and constituting those calls/messages as set forth in Claim 10. For at least these reasons, the Applicant respectfully submits that Claim 10 is also allowable over *Sakai*.

With respect to independent Claims 19 and 28, it is again respectfully submitted that *Sakai* does not teach any correlation between calls and messages. The cited paragraphs of *Sakai* merely describe "caller ID" information, but do not teach or disclose receiving both calls

and messages, saving unanswered call data and messages relating to those calls, and then constituting contact attempts using both the unanswered call data and the related messages. For at least these reasons, it is respectfully submitted that Claims 19 and 28 are not anticipated by *Sakai*, and reconsideration and withdrawal of the rejections thereto is respectfully solicited.

The dependent claims were also addressed by the Examiner, and were also identified as being anticipated by *Sakai*. The Applicant respectfully disagrees. Dependent Claims 2-9 are dependent from independent Claim 1; dependent Claims 11-18 are dependent from independent Claim 10; dependent Claims 20-27 are dependent from independent Claim 19; and dependent Claims 29-37 are dependent from independent Claim 28. While the Applicant does not acquiesce with the particular rejections to these dependent claims, including characterizations of the cited prior art, any assertions concerning common knowledge, obvious design choice and/or what may be otherwise well-known in the art, it is believed that these rejections are moot in view of the remarks made in connection with independent Claims 1, 10, 19 and 28. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. Therefore, dependent Claims 2-9, 11-18, 20-27 and 29-37 are also in condition for allowance over the cited prior art.

It is also noted that other differences may exist between *Sakai* and the pending claims that are not specifically set forth herein. However, all claim limitations must be found in a single prior art reference to maintain a rejection based on 35 U.S.C. §102, and establishing that any such limitation is missing from the prior art is sufficient to overcome a §102 rejection. Thus, not every distinction need be addressed to overcome a charge of anticipation. Accordingly, the Applicants avow that an absence of remarks identifying further possible distinctions is not an admission that there is correspondence between other claim recitations and the cited prior art, and the Applicant reserves the right to argue other distinctions at an appropriate time. The Applicant also respectfully submits that the explanatory remarks provided herein identify why it is believed that the characterization of *Sakai* provided in the Office Action is contested, and the claims as originally filed are not intended to be narrowed, nor are they narrowed, by the remarks provided herein.

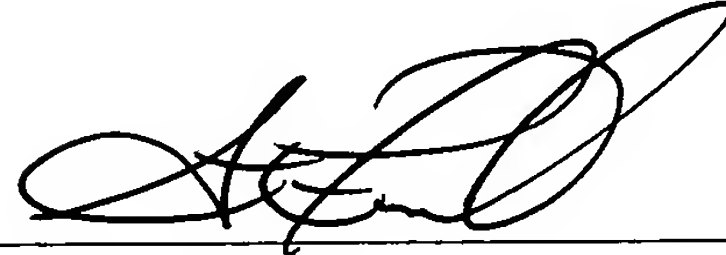
If the Examiner believes it to be helpful, the undersigned attorney of record invites the Examiner to contact him at 952.854.2700 (ext. 11) to discuss any issues related to this case.

Respectfully submitted,

**HOLLINGSWORTH & FUNK, LLC**  
8009 34<sup>th</sup> Avenue South, Suite 125  
Minneapolis, MN 55425  
952.854.2700 (x11)

Date: October 15, 2005

By: \_\_\_\_\_



Steven R. Funk  
Reg. No. 37,830